

Schedule (2)(b)
Defendants' Contested Issues of Fact and Law¹

*** Defendants contest the facts contained in Plaintiff's Statement of Uncontested Facts insofar as they restate the allegations contained in the Complaint that Defendants contested and addressed in their Answer and Affirmative Defenses.**

Defendant's Statement of Contested Issues of Fact and Law

1. Plaintiff cannot establish entitlement to punitive damages.
2. Plaintiff cannot establish entitlement to compensatory damages for alleged emotional distress or pain and suffering.
3. Plaintiff cannot establish entitlement to compensatory damages for lost wages, front pay, back pay, pension, other benefits, or loss of earning capacity.
4. Plaintiff is not entitled to attorney's fees, costs or pre-post judgment interest related to any of the claims on which he does not prevail in this action.
5. Defendants are entitled to an award of attorneys' fees against Plaintiff on all claims on which they have prevailed.
6. Claims against Defendants Coons and Sapp in their official capacities are duplicative of the municipal liability claims against the County.
7. Plaintiff did not engage in activity protected by the First Amendment.
8. Did Plaintiff suffer any adverse employment action as a result of the conduct of defendants?
9. Plaintiff's allegedly protected speech was not a "substantial" or "motivating" factor in any of Defendants' allegedly retaliatory actions.
10. Defendants would have taken the same actions involving Plaintiff absent the allegedly protected conduct.
11. Plaintiff cannot sustain a claim of municipal liability by virtue of *respondeat superior*.
12. Defendants Coons and Sapp, in their individual capacities, are entitled to qualified

¹ Subject to judicial determination of Defense Motions in Limine.

immunity.

13. Was Plaintiff eligible and/or qualified to be promoted to the rank of Sergeant.
14. Did Defendant Coons play any role in the events and decision of June 29, 2005?
15. Has Plaintiff failed to mitigate his damages?
16. Plaintiff cannot establish entitlement to the reparative and mandatory injunctions and other equitable relief requested in the Complaint and contained in his statement of special damages.